THE HONOURABLE SRI JUSTICE N.V.RAMANA

W. P.No.6641 of 2007

Dated:03.04.2007

Between:

The Divisional Engineer (Electrical) Operation Rural North,
A.P.Transco, Habsiguda, Hyderabad.

.....PETITIONER

AND

G. Brahmachary and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 6641 of 2007

O R D E R:

Aggrieved by the award dated 29.06.2006, passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D. No. 37 of 2003, directing the petitioner-AP TRANSCO herein to reinstate the 1st respondent-workman into service with continuity of service by treating the period of absence as leave without pay and from there onwards with half pay till the date of the order, the petitioner-AP TRANSCO filed the present writ petition.

2. Respondent No.1-workman is employed as Assistant Lineman in the petitioner-AP TRANSCO. He was issued a charge sheet dated 20.10.1999, alleging that he unauthorizedly absented from duties from 05.06.1998 to 26.08.1999 without obtaining prior permission or sanction. Thereafter, an enquiry was conducted against respondent No.1, and the Enquiry Officer, who conducted the enquiry, filed his report stating that the charges framed against him are proved. Based on the said report, a final show cause notice dated 23.03.2000 was issued calling upon respondent No.1 to submit his explanation. Respondent No.1 submitted his

explanation dated 15.05.2000. After considering the explanation and the enquiry report, the disciplinary authority passed orders dated 20.07.2000 retrenching the services of respondent No.1-workman with effect from 05.06.1998. Aggrieved by the same, respondent No.1-workman preferred an appeal before the Appellate Authority, which was rejected. Thereupon, respondent No.1-workman raised an industrial dispute in I.D. No.37 of 2003, and that the Labour Court, by award dated 29.06.2006, directed the petitioner-AP TRANSCO to reinstate respondent No.1-workman into service with continuity of service by treating the period from 05.06.1998 to 26.08.1999 as leave without pay, and from there onwards with half pay till the date of award. Assailing the award of the Labour Court, the petitioner-AP TRANSCO filed the present writ petition.

3. Learned Standing Counsel for the petitioner-AP TRANSCO contends that the Labour Court, having held that the charges are proved, ought not to have interfered with the punishment of removal. He, thus, prays to set aside the award of the Labour Court and allow the writ petition.

4. Heard the learned Standing Counsel for the petitioner-AP TRANSCO and perused the award of the Labour Court.

5. The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere

with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Industrial Tribunal, is to be examined.

6. The respondent No.1-workman was charge sheeted alleging that he unauthorisedly absented from duties from 05.06.1998. After considering the explanation submitted by respondent No.1-workman and after conducting regular enquiry, the petitioner-AP TRANSCO passed orders retrenching the services of respondent No.1-workman with effect from 05.06.1998, which was confirmed by appellate authority. The Labour Court, after appreciating the entire material and evidence on record, observed that the Enquiry Officer, having believed the medical certificate produced by the respondent No.1-workman about the treatment undergone by him and fitness certificate for joining duty, did not reject and has come to the conclusion that due to continuous ill-health, mental depression and financial conditions of the family, the respondent No.1-workman could not obtain prior permission, and he did not give any finding against the respondent No.1-workman that he absconded from duties. While observing so, the Labour Court, having held that it is not a case of absconding, but it is a case of failure to obtain any prior permission or proper sanction of leave from the competent authority, and the punishment imposed is not proportionate to misconduct proved, set aside the punishment awarded by the disciplinary authority, as confirmed by the

appellate authority, and directed the petitioner-AP TRASCCO to reinstate respondent No.1-workman, and I see no reasons to interfere with the same, more so when the petitioner-AP TRANSCO failed to show any infirmities in the award passed by the Labour Court.

7. The Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V.RAMANA, J

Dated: 03.04.2007

sj